



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 06740-99

17 February 2000

SGT [REDACTED] SMC

Dear Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested removal of two fitness reports, for 1 March 1997 to 28 February 1998 and 1 March to 14 June 1998.

It is noted that the Commandant of the Marine Corps (CMC) has amended both contested fitness reports by removing all references to weight control, such references appearing in the third sighting officer's comments on the report for 1 March 1997 to 28 February 1998, in the reporting senior's comments on the report for 1 March to 14 June 1998, and in the reviewing officer's comments on both reports.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the reports of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 26 October 1999 and 16 February 2000, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice warranting complete removal of the contested fitness reports. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. The Board was unable to accept the allegations, in the gunnery sergeant's statement on your behalf dated 1 July 1999, that the weight reflected in one of the contested reports was measured after the reporting period, that you were not afforded the opportunity to correct your deficiency regarding your body fat, or that the reporting senior discriminated against you because you were in a support element. The Board found both contested reports were properly treated as adverse, since both reflect you were not in compliance with Marine Corps

body fat standards, and item 19 of the report for 1 March to 14 June 1998 reflects the reporting senior considered you not qualified for promotion. In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

6740-99



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
OCT 26 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
SERGEANT [REDACTED] SMC

Ref: (a) Sergeant [REDACTED] Form 149 of 12 Jul 99
(b) MCO P1610.7D W/Ch 1-4

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 21 October 1999 to consider Sergeant [REDACTED] petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 970301 to 980228 (AN)
- b. Report B - 980301 to 980614 (CH)

Reference (b) is the performance evaluation directive governing the submission of both reports.

2. The petitioner offers his own statements and provides documentation which he believes will show why the reports at issue are unjust and inaccurate. In essence, the petitioner states that he had always been granted an alternate weight limit; that he had never been counseled concerning weight/personal appearance; and that he was not assigned to the Weight Control Program during the respective reporting periods.

3. In its proceedings, the PERB concluded that, with minor exceptions, both reports are administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. At the outset, the Board acknowledges that the petitioner was not assigned to the Weight Control Program until 22 June 1998. Hence, neither Report A nor Report B should indicate the petitioner's assignment to or participation in the program. The Board has, therefore, directed elimination of the following comments from the reports indicated:

(1) From the Reviewing Officer's remarks on Report A:
"once off weight control he will be highly recommended for promotion and retention"

(4) P5-23

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
SERGEANT [REDACTED] USMC

(2) From the Reviewing Officer's remarks on Report B:
"required for removal from weight control"

b. Regardless of the documentation furnished with reference (a), the bottom line is that alternate weight standards are no longer granted and the petitioner was not within established Marine Corps height/weight standards. Hence, both reports were correctly processed as adverse appraisals. Simply stated, there is no error or injustice associated with either evaluation.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness reports, as modified, should remain a part of Sergeant [REDACTED] official military record. The limited corrective actions identified in subparagraphs 3a(1) and 3a(2) are considered sufficient.

5. The case is forwarded for final action.

[REDACTED]
[REDACTED] IN
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps

[REDACTED]

From: [REDACTED]/MM/MANPOWER@manpower.usmc.mil
Sent: Wednesday, February 16, 2000 1:48 PM
To: [REDACTED]@hq.navy.mil
Subject: [REDACTED]

[REDACTED]

This will confirm our conversation earlier this afternoon. PERB will direct removal of the following verbiage from subject's fitness reports indicated below:

-- 970301-980228 (AN). From the Third Officer's comments: "Marine is making good progress on the weight program to date with loss of 10 pounds and 1 inch from his waist."

-- 980301-980614 (CH). From the Reporting Senior's comments: "SNM is currently assigned to the marine Corps weight control program and is making satisfactory progress."

[REDACTED]